

1 **Town of Middlebury**
2 **Development Review Board (DRB)**
3 **Town Office Large Conference Room**
4 **Minutes of January 22, 2018**
5 **Approved as presented 2/12/2018**
6

Members Present: Kevin Newton, Gary Baker, Rick Emilo, Scott Foster, David Hamilton, Don Keeler, and Anne Taylor

Members Absent: John MacIntyre

Staff Present: Jennifer Murray, Katherine Wheatley (videographer)

Others Present: Barbara Flickinger, James Blair, David Shlansky, Shayne Lynn and Tim Eaton

7
8 **MEETING AGENDA**
9

- 10 1. An application request by Off da Hook, LLC for final conditional use approval to rehabilitate
11 and renovate an existing mixed-use commercial building converting the entire building to eight
12 (8) dwelling units (apartments). Development Review Board approval for this project is required
13 pursuant to section 747. The property is located at 24 Washington Street in the Village
14 Residential Commercial district (VRC), parcel ID# 25:037.
- 15 2. An application request by Champlain Valley Dispensary, Inc. for final conditional use approval
16 to convert and use an existing professional office space for a retail dispensary of medical
17 products and related services pursuant to Title 18, chapter 86 (Therapeutic use of Cannabis). The
18 property is located at 1641 Rte. 7 South in the Protected Highway district (PHD), parcel ID#
19 08:113.

20 Kevin Newton called the meeting to order at 7:00 pm, and reviewed tonight's agenda.

21
22 **1. Minutes of 12/11/2017**

23 **Approval of 12/11/2017 Minutes- Motion-** Don Keeler moved to approve the 12/11/2017
24 minutes as presented, Gary Baker 2nds. Motion passed, 6-yes, 0-no.

25 **2. Adjustments to alter agenda-** None noted.

26 **3. Hearing on an application by Off da Hook, LLC for final conditional use approval to**
27 **rehabilitate and renovate an existing mixed-use commercial building converting the entire**
28 **building to eight (8) dwelling units (apartments). Development Review Board approval for**
29 **this project is required pursuant to section 747. The property is located at 24 Washington**
30 **Street in the Village Residential Commercial district, parcel ID 25:037.**

31 Kevin Newton administered the oath to those present and asked if any Board member had a
32 conflict or ex-parte communication regarding this application. Kevin asked the applicant to present
33 the application for the benefit of those present.

34 Anne asked if the parking area would be paved. Mr. Shlansky responded that he would like to, but
35 he doesn't want to promise- it depends on his final budget. Mr. Shlansky gave a summary of the
36 proposed exterior renovations and the feedback he received from the design advisory committee.
37 He plans to replace the asphalt shingle roof with a slate roof, and the windows will not change. He
38 views this as a historic/aesthetic rehabilitation for adaptive re-use of the building.

39 Don asked if the building would need to be sprinklered, and Mr. Shlansky responded yes.

40 Anne asked about the outdoor lighting and a discrepancy she had noticed between the submission
41 and historic application. She asked if some lighting was not in compliance with the regulations, if

42 they would be willing to bring it into compliance? Mr. Shlansky replied yes, and that they plan to
43 produce a lighting schedule as the project proceeds.

44 Gary asked why they were planning on doing a slate roof. Mr. Shlansky replied that it was an
45 original feature of the property prior to the installation of the asphalt roof shingles, and that this
46 was something they decided to do for their historic renovation approval by the National Park
47 Service. Some slate remains on the back roof.

48 David Hamilton clarified the landscaping recommendations from the Design Advisory Committee.
49 Mr. Shlansky recalled that a DAC member thought the linden trees along Buttolph Drive were
50 short-lived and should be replaced with another species, also that landscaping should be added in
51 the front (Washington Street side). He said the vestibule would be coming off and that they would
52 like to plant trees along the Washington Street side.

53 Anne asked about the access of the units, in thinking about grading and landscaping. Mr. Shlansky
54 responded that he is open to suggestions.

55 David recommended sticking with the design advisory committee recommendations to add
56 landscaping to make it more residential and less commercial.

57 Kevin asked for remaining questions from the board, then opened the floor to questions from the
58 audience.

59 Jim Blair lives across from the subject property, at 27 Washington Street. He thinks addition of
60 trees on that side of the street would be fine, and welcome. It would make it look more residential.
61 The proposed color scheme looks good. More people walking on the sidewalk would be good for
62 the area, and additional landscaping could encourage that.

63 Barbara Flickinger is a neighbor at 29 Washington Street. She thinks adding trees would be a nice
64 addition, to make the property appear more residential and assist with the transition from
65 commercial to residential along Washington Street. She is also supportive of the egress only being
66 onto Buttolph Drive.

67 Don asked if staff had heard from any other neighbors, and staff had spoken to and shared the
68 application materials with one of the owners of the Gipson property next door.

69 **Motion by Anne Taylor- I move to close the Off-da-Hook hearing and enter deliberation at the**
70 **conclusion of the next hearing (CVD). David Hamilton 2nds. Motion carries 6-yes and 0-no.**
71

72 **4. Hearing on application by Champlain Valley Dispensary, Inc. for final conditional use**
73 **approval to convert and use an existing professional office space for a retail dispensary**
74 **of medical products and related services pursuant to Title 18, chapter 86 (Therapeutic**
75 **use of Cannabis). The property is located at 1641 Rte. 7 South in the Protected Highway**
76 **district (PHD), parcel ID# 08:113.**

77 Kevin Newton administered the oath to those present and asked if any Board member had a
78 conflict or ex-parte communication regarding this application. Don Keeler recused himself (and sat
79 with the audience) from this application review as he has a conflict due to the Federal legal status
80 of marijuana.

81 Applicant Shayne Lynn operates Champlain Valley Dispensary (CVD) and presented the
82 application to the DRB. Mr. Lynn summarized the proposed uses for the property- both the
83 medical marijuana dispensary and the Ceres natural remedies store, which will operate in separate
84 spaces within the same building. Kevin asked the applicant to describe any changes to the
85 proposal since the last hearing. Mr. Lynn described the location they have selected for a sign,
86 showed the parking layout drawing, the location of one new outdoor pole light in the parking area,
87 and said they would be marking the locations of the parking spaces.

88 Anne asked about the “starting hours” stated in their application, and asked if they would continue
89 to operate within those hours. David asked if they were to specify hours, would that work for
90 them? Mr. Lynn responded yes.

91 David noted that there is a Ceres store on Bank Street in Burlington and asked if the applicant
92 could describe the differences between that space and this. Mr. Lynn said it won’t be anything like
93 the Burlington store aesthetically and in the organization of the interior. David asked about the use
94 of the space. Mr. Lynn replied that the Middlebury store would be much smaller, at approx. 400sf
95 instead of 1800sf in Burlington. There would be a smaller selection of CBD products due to the
96 smaller footprint. The purpose of the Middlebury store will be to introduce people to CBD
97 products, then if they want a greater variety they would be referred to the Burlington location.

98 Rick asked if there has been a TV ad about this store recently? Mr. Lynn responded no, just some
99 news interviews and possibly a radio ad. Rick asked if there are other similar businesses he could
100 be confusing them with? Mr. Lynn mentioned Green Street Gardener in Burlington, and a
101 competitor in Montpelier.

102 Anne said the Route 7 access is obviously approved by the State, but it occurs to her that people
103 turning left out of the Route 7 access will be competing with people turning off Foote Street. She
104 would like to discuss that more. Rick shared his experiences turning off Foote Street onto Route 7.
105 Mr. Lynn asked for clarification about what was under discussion. The DRB clarified that they
106 were thinking about a Right Turn Only sign to be posted at the entrance with Route 7.

107 Kevin said the proposal is for a retail dispensary for the therapeutic use of cannabis. In light of the
108 new legislation moving toward legalization of marijuana, is it the applicant’s understanding that
109 this permit does not include retail sales of marijuana? That it is for medical use only? Mr. Lynn
110 responded yes. Kevin asked- and anything else would have to come back before the board? Mr.
111 Lynn responded yes again.

112 Kevin asked- are you proposing any landscaping improvements? Mr. Lynn responded no, that
113 they would come back to ask before doing landscaping improvements.

114 Kevin asked for remaining questions from the board, then turned over the floor to questions from
115 the audience. Don Keeler said he has a copy of the current marijuana bill, and it specifies that
116 people must be age 21 to possess marijuana. He does not support the use of marijuana because of
117 an oath he took to serve as sheriff. He asked the applicant- why he would allow 18 year olds at
118 this establishment. Mr. Lynn responded that customers under 21 need to be accompanied by a
119 licensed caregiver who is over 21. Mr. Keeler asked- if we are legalizing marijuana, why would
120 people come to your store to buy it? Mr. Lynn said that remains to be seen, and it will probably
121 affect their business. Mr. Keeler said the State will be looking at empowering the local
122 communities through land use laws to regulate sales of marijuana. He also quoted a 2015 study
123 that reported 80,000 users in Vermont on a regular basis, or 25% of the adult population.

124 **Motion- David Hamilton** moved to close the hearing for CVD and for the Board to discuss this
125 application in deliberative session, 2nd by Gary Baker. Motion passed 6-yes and 0-no.

126 **Motion- Scott Foster** moved to enter deliberative session, 2nd by Rick Emilo. Motion passed 6-yes
127 and 0-no, Don Keeler abstained.

128 DRB entered deliberative session. Don Keeler left the meeting halfway during deliberative session,
129 prior to discussion of the CVD application.

130 **Motion - Gary Baker** moved to exit deliberative session at for both Off-da-Hook and Champlain
131 Valley Dispensary, 2nd by Scott Foster. Motion passed 6-yes and 0-no.

132 **Off-da-Hook- Motion by Scott Foster - I move** that the Middlebury Development Review
133 Board, having reviewed the application and exhibits submitted and having heard and duly

134 considered the testimony presented at the public hearing of January 22, 2018 **approve** this
135 request by Off da Hook, LLC for a multifamily dwelling and the renovation/rehabilitation of 8
136 multi-family residential units located at 24 Washington Street, parcel # 25:037.000. David
137 Hamilton 2nds. Motion passed 6-yes and 0-no.
138

139 **Champlain Valley Dispensary- Motion by Rick Emilo** - I **move** that the Middlebury
140 Development Review Board, having reviewed the application submitted and having heard and
141 duly considered the testimony presented at the public hearing of January 22, 2018, **approve** this
142 conditional use request for a change of use to retail store/services to operate both a medical
143 marijuana dispensary and natural remedies retail store in the building owned by Stepping Stone
144 Investments, LLC at 1641 Route 7 South. Scott Foster 2nds. Anne Taylor stipulated that they
145 have developed conditions of approval that will be provided in the final written decision to be
146 signed by the DRB Chair. Motion approved 6-yes and 0-no.
147

148 **5. Other business**

149 Next meeting- February 12, 2018
150

151 **6. Adjournment**

152 **Motion by Rick Emilo-** the DRB voted to adjourn, David Hamilton 2nds. Motion passed, 6-yes -
153 0-no

154 Meeting adjourned at 8:30 pm.

155

156 Minutes Submitted by Jennifer Murray