

MINUTES

HARRISBURG PLANNING COMMISSION RESCHEDULED MEETING November 9, 2022

MEMBERS PRESENT: Joseph Alsberry, Chair
Vern McKissick, Vice Chair
Shaun E. O'Toole
Jamesetta Reed
Ausha Green
Anne Marek

STAFF PRESENT: Geoffrey Knight, Planning Director
Neil Grover, City Solicitor

CALL TO ORDER: 6:31 PM

APPROVAL OF MINUTES: Commissioner Reed noted that she had not abstained from a vote on approval of the September 7th meeting minutes [Note: vote of approval confirmed in follow-up communication]. Commissioner Marek moved, and Commissioner Green second the motion, to approve the minutes from the October 5, 2022 meeting with the noted correction. The motion was adopted by a (6-0) vote.

OLD BUSINESS:
N/A

NEW BUSINESS:

- 1. Variance & Special Exception Application for 430 Reily Street, zoned Residential Medium-Density (RM), filed by Kevin Baird with 400 Reily Street, LLC, to construct a mixed-use development featuring 142 apartments, a restaurant and coffee shop, commercial space, and a 171-space parking garage. This is a revision to a development proposal previously reviewed and approved by the Zoning Hearing Board in February 2021.**

The case was represented by Ambrose Heinz with Stevens & Lee (the legal counsel), 17 North 2nd Street, Suite 1600, Harrisburg, PA 17101; and Kevin McGarrity with BL Companies (the project engineer), 2601 Market Place, Suite 350, Harrisburg, PA 17110 (aka “the Applicants”).

Mr. Knight gave a synopsis of the case report recommending the request be Approved with the following conditions:

1. At least a week prior to the Zoning Hearing Board meeting, the Applicant will submit written agreements/proposals for the car-share service and mass transit subsidy they have referenced

in their proposal, so that the Planning Bureau has time to review the proposals and ascertain whether they meet the requirements of the Zoning Code.

2. The Applicant will redesign the Reily Street façade to incorporate a second entrance into the retail space further to the west, to better activate the southern frontage of the property. The northern frontage of the property will likewise be redesigned to create a more attractive streetscape along the Boyd Street urban meadow, and to incorporate a secure, street-level bike parking area.
3. The Applicant will install a secure bike storage area between the secondary stairwell and the “Coffee Shop/Café” space along the Boyd Street urban meadow for use by visitors and staff of businesses on-site. The current bike storage is located in the basement, meaning it is largely inaccessible to visitors and business customers.
4. Given the entire site (44,100 square feet) will be “paved,” the project will need to plant fifteen (15) trees, per Section 7-307.12(b) of the Zoning Code; the Applicant will coordinate with the City Arborist on the selection and location of trees in the surrounding rights-of-way.
5. The Applicant will coordinate with the Department of Public Works to confirm the appropriate size and location of refuse collection on-site.

Commissioner Alsberry asked the Applicants whether the conditions in the case report were acceptable. The Applicants stated that they were. Commissioner Alsberry asked whether the Applicants had anything to add to the case report; the Applicants stated that they were willing to answer any questions from the commissioners.

Commissioner Alsberry asked whether any of the commissioners had comments or concerns about the project.

Commissioner McKissick stated that he thought the proposal represented a well-detailed plan and that he supported it.

Commissioner O’Toole concurred with Commissioner McKissick, but noted that he was disappointed to see that the proposed grocery store space had been removed from the previous iteration of the plan. The Applicants stated that the proposed retail space may include a “grocery component,” but that it would not be the size that was originally intended.

Commissioner Reed stated that she did not have any questions.

Commissioner Marek stated that she concurred with the previous commissioners and that she hoped the proposed commercial space in the revised development would accommodate uses that would benefit the community.

Commissioner Green stated that it was a detailed plan that seemed to make sense, and noted that the residential component featured a variety of configurations from studios to two-bedroom units. She asked whether the project would include any affordable units; the Applicants confirmed that the current project proposed at least eleven “affordable” units.

Commissioner Alsberry asked if there was anyone from the public that was for or against the project. There were no comments.

Commissioner O'Toole moved, and Commissioner McKissick seconded the motion, to Approve the request with Staff Conditions. The motion was adopted by a unanimous vote (6-0).

2. Special Exception Application for 19½ North 4th Street, zone Downtown Center (DC), filed by Dijon Cole with C.R.E.A.M. Consulting & Investing, LLC, to establish a “community engagement center” which serves as a networking and business growth space.

The case was represented by Dijon Cole (the business owner), 19½ North 4th Street, Harrisburg PA, 17101; Richard Krupp (a business partner), 19½ North 4th Street, Harrisburg PA, 17101; and Taron Strawbridge (a business partner), 19½ North 4th Street, Harrisburg PA, 17101 (aka “the Applicants”).

Mr. Knight gave a synopsis of the case report recommending the request be Approved with the following conditions:

1. The business will have hours of operation limited to 8 AM to 10 PM, Monday through Sunday, as outlined in the supplemental documentation provided by the Applicant, to mitigate potentially adverse impacts from the proposed use on surrounding residents.
2. No alcoholic beverages service or “BYOB Permit” will be permitted on-site, to ensure the space functions in a business/commercial capacity and does not produce the same adverse impacts as recent uses, although occasional events, such as 3rd in the Burg, may allow a licensed caterer.

Commissioner Alsberry asked the Applicants whether the conditions in the case report were acceptable. The Applicants stated that they were. Commissioner Alsberry asked whether the Applicants had anything to add to the case report. The Applicants stated that the space would be similar to the University of Pittsburgh’s community engagement center, and would provide meeting, seminar, and programming space for area non-profits and businesses in the downtown area, as well as Harrisburg University.

The Applicants provided their background relationship to Vera Cornish. They stated that they were familiar with the importance of procurement for Small Business Enterprises (SBEs), Women-Owned Business Enterprises (WBEs), and Minority-Owned Business Enterprises (MBEs), and that they hoped to help small business growth in the city.

Commissioner Alsberry asked whether the Applicants had any formal communication with Harrisburg University which could demonstrate their commitment to a future relationship with their business. The Applicants stated they had been in communication with Jamal Jones, who was heading up the University’s Center for Entrepreneurship and Innovation, which would be establishing a physical presence in Strawberry Square, but was also looking for nearby space as well. They also noted their discussions with Temple University’s Project Director, Phoebe West, and stated that they were also looking for space. They stated their intention to be a good neighbor that contributed to the community.

Commissioner Alsberry noted that he had inquired about coordination with Harrisburg University because the Planning Commission wanted to ensure that Applicants engaged local businesses and residents to create partnerships in the community.

Commissioner McKissick stated that he was trying to understand the Applicants' business model, noting that there was about 2,000 square feet of space on each of the two floors, and asked whether the Applicants would be occupying the upper floors as well. They confirmed that they would only be occupying the first floor and the basement. They stated that the first floor would be flexible rental space for organizations or businesses, referencing a partner business that did 3D printing and noting that they could hold events in which the community had access to their equipment, and stated that the basement would be utilized in a similar manner and would also feature arts from local artists and students. The Applicants stated that they would be able to tailor the space to the needs of the organizations that leased it.

Commissioner McKissick noted that the interior space was relatively narrow, and inquired as to how the space would be managed; the Applicants confirmed that they would sign contracts with organizations to use the space for pop-up events. They also noted that they hoped to secure a monthly lease contract with the Center for Entrepreneurship & Innovation, and that the NAACP would be utilizing space through February 2023. They noted that the specific spatial needs for each potential tenant would be specified in their contract.

Commissioner McKissick noted that the proposed use sounded much broader than the activities outlined in the Zoning Code. Mr. Knight concurred and noted that the open-ended nature of the proposal seemed to align with the Special Exception review criteria outlined for "uses not specifically prohibited." He noted that the Zoning Code still provided the Planning Commission and Zoning Hearing Board with the opportunity to review proposals of this nature against criteria for other similar, permitted uses in the zoning district. Mr. Knight noted that if the activities on-site had been more strictly defined or limited, so as to allow the use to be permitted by right as an "Office" or a "Community Center" use, then the proposal would not be before the Planning Commission.

Commissioner McKissick asked whether the Applicants were intending on having a kitchen or food service on-site; they confirmed that they would not have a kitchen on-site, that they would not have alcohol on-site, and that all activities would cease by 10 PM.

Commissioner O'Toole asked whether the Applicants had any connection to the University of Pittsburgh. Mr. Cole noted that he had attended college in the Pittsburgh area and had made connections to the university through his community service work. He stated that as a resident of Harrisburg with ties in Pittsburgh and Philadelphia, he felt that a similar business was needed and would be successful in the city. Commissioner O'Toole stated that the nature of the proposed activities on-site was a little unclear, but he felt the proposal would be a significant improvement on the illegal "BYOB Club"/"Night Club" use that had previously been operating on-site.

Commissioner Reed stated that her questions had been addressed by the other commissioners.

Commissioner Green noted that the proposal sounded like a pop-up event space, and the Applicants clarified that it was a business engagement center geared towards non-profits in the city; they noted that these organizations did not often have physical space for meetings and events. They noted that Harrisburg University attracted students from a multi-state region, and that the business would provide them with space to establish a business community.

Commissioner Green stated that she was most familiar with community engagement space tied directly to an institution such as a hospital or university, which outside entities could use on an infrequent, pop-up basis. She asked whether individuals or groups that were not non-profits could also lease space, such as for a birthday party; the Applicants stated that they intended to work directly with corporate and business organizations. They stated that their focus was on creating a community space for entities throughout the city, and thus that they would not be leasing space to individuals on a one-off basis.

Commissioner Green stated that she appreciated the Applicants' proposal, but that without the use being connected to a specific organization, it felt a bit too open-ended. She noted that community engagement was usually an individual organization reaching out to the community in which it was located, but that the current application proposed a space to act as a hub for various organizations or groups to engage one another; the Applicants concurred that was accurate. Commissioner Green noted that the Applicants had referenced coordination with their neighbor, Harrisburg University, and asked why they would need to utilize the proposed space instead of their own space. The Applicants stated that the University's current student center space in the Whitaker Center was not large enough to meet all of their programming needs, and that they were searching for more flexible space outside of that venue.

Commissioner Green inquired as to the other services the Applicants' business would provide aside from engagement space; they stated they would assist in event set-up and that they could also incorporate their expertise in non-profit consulting and grant writing. The Applicants stated that SBEs, WBEs, and MBEs often lacked the background and connections to apply for grants and submit proposals for projects and developments. They reiterated that the goal of the proposal was to create a space where organizations, particularly small and large businesses and non-profits, could meet and engage one another on those issues. Commissioner Green stated that the proposal seemed to fall outside of the description of the business that they first provided. The Applicants attempted to clarify the scope of activities that the business would promote.

Commissioner Green stated that the scope, description, and intensity of the proposed business was still a bit unclear; she asked whether the business would function as a permanent base for non-profits, as well as temporary space for various pop-up events. The Applicants confirmed that was accurate. Commissioner Green asked Commissioner McKissick whether, as an architect, he felt the space could accommodate the variety of proposed. The Applicants interjected, noting that the various tenants would occupy the space at complementary, but not overlapping, timeframes.

Commissioner Green stated that she understood the Applicants would schedule tenants around each other, but that she didn't understand how some tenants could have a permanent presence with equipment and supplies in the same space that other tenants could lease out temporarily; she

stated that she didn't understand how that business plan could be successful. The Applicants clarified that none of the tenants would have a permanent, physical presence in the space and that organizations would lease flexible space to tenants on a contractual basis.

The Applicants note that they had a waiting list of seven possible tenants to utilize the space for their specific programming needs, but that they hadn't signed any contracts because they were waiting until they received approval from the Zoning Hearing Board. They confirmed that none of their tenants would have permanent office space on-site.

A member of the public interjected, and Commissioner Green invited them to approach the Applicants' table to introduce themselves and provide comments.

Commissioner Green asked the Applicants to confirm that individuals would not be renting permanent space, such as cubicles, at the business. The Applicants confirmed that was accurate. Commissioner Green noted that it appeared similar to an "event venue" in the sense that flexible-use space was rented on an hourly or daily basis, but noted she understood it was not the same as an "event space" for parties and celebrations. The Applicants confirmed that interpretation was accurate; they noted that tenants would not have keys to the building and that they could not access the property outside of business hours. The Applicants stated that while their business model envisioned consistent use of the space by organizations, there would be no permanent presence on-site.

Commissioner Marek noted that she was involved with a non-profit that did not have its own facility, and thus they needed to secure physical meeting space each month for their monthly meetings; she noted that this also applied to any community or membership activities the group wanted to do. She stated that she appreciated how the proposal did not fit neatly into one of the use designations in the Zoning Code, but felt that it would be acceptable based on the constraints included in the Planning Bureau's conditions of approval and the similarity to impacts from other by-right uses. Commissioner Marek noted that while it was good that the Applicant had engaged local organizations as partners, that formal letters of support from businesses or organizations would be beneficial to their cause. The Applicants stated that they had individuals scheduled to testify at the original meeting date (November 2nd) who could not make the rescheduled meeting, but that those individuals would be at the Zoning Hearing Board meeting.

Mr. Grover noted that there may be a complication in legal standing created by the lease being signed with an individual, while the property deed indicated it was owned by a corporate entity; he stated that the Applicants should ensure they could connect the lessor to the property owner. The Applicants noted that Planning Bureau staff had apprised them of that issue, and that they were working to get an updated deed ahead of the Zoning Hearing Board meeting.

Commissioner Alsberry asked if there was anyone from the public that was for or against the project. There were no comments.

Commissioner Alsberry noted that during his time with the Central PA Workforce Development Board, they were often looking for off-site meeting locations, and he heard about the need for meeting space from various business owners as well.

Commissioner O'Toole moved, and Commissioner Reed seconded the motion, to Approve the request with Staff Conditions. The motion was adopted by a unanimous vote (6-0).

3. Variance Application for 1833 North 6th Street, zoned Commercial Neighborhood (CN), filed by William Wos with Catherine Hershey School for Early Learning, to construct an accessory parking lot as the primary use of the subject property.

The case was represented by Scott Dietrich (the legal counsel), 11 North 3rd Street, Harrisburg, PA 17101; Senate Alexander with Catherine Hershey School (the property owner), P.O. Box 830, Hershey, PA 17033; and Mark Hackenburg with RGS Associates (the project architect), 320 North Market Street, Suite 550, Harrisburg, PA 17101 (aka "the Applicants").

Mr. Knight gave a synopsis of the case report recommending the request be Denied.

Commissioner Alsberry asked the Applicants to state why the application should not be denied. The Applicants stated that they disagreed with the Planning Bureau's recommendation. They stated that the proposal was for an attractively-landscaped parking lot that was necessary for the project to the north across Muench Street. They stated that "accessory parking" was permitted in the zoning district but that the only reason it was not a by-right proposal was because it was not located on the same lot as the use it would be serving. The Applicants stated that the two lots which provided parking for the Broad Street Market established a precedent for their proposal.

The Applicants claimed that the neighborhood needed additional parking, and that the Catherine Hershey School facility required the additional parking; they stated that they did not want to have a detrimental impact on parking in the neighborhood. They stated that they would prove it was a benefit to the neighbors, that "the lot had no other practical uses," and that no one from the public had objected to the proposal.

The Applicants noted that they had previously presented their Land Development Plan for the primary facility to the north of the project site, and thanked the commissioners for their support of that project. They noted that they were a subsidiary of the Milton Hershey School and that the proposed facility would provide free child care to low-income families. They stated that they were trying to have a two generational impact, which would provide services to adults within families, including housing family engagement specialists. They also stated that they would have partnership space for local non-profit organizations. The Applicants stated that for these reasons, they needed the proposed parking lot.

The Applicants stated that their chief concern they heard was regarding parking, which they claimed was at a premium in the city, and that residents had told them that there was no on-street parking available. They reiterated that they would be having partnerships with outside organizations on-site, which would generate a large demand for parking. The Applicants claimed the parking lot was imperative to not disrupt the neighborhood. They stated there would be a "community plaza" at the parking lot, and speculated that they might eventually have farmer's markets or art festivals.

They stated that there was no other reasonable use for the property and thus there was justification for the proposal. They stated that because there would be a bus stop on-site, it was not an appropriate location for residential units or a mixed-use development. They stated that because they were a non-profit, they could not develop residential units. The Applicant again claimed that a surface parking lot was the only reasonable use for the property.

The Applicants presented large project boards with site plans and renderings for the Planning Commission's review. They noted that the existing site plan drawing showed the property within the context of the neighborhood, as well as the properties that surrounded the overall project site. They noted that there were four existing bus stops along 6th Street near to the project site; and noted that they were proposing a new shelter at the intersection of 6th Street and Muench Street. The Applicants stated that they contacted all of the neighbors, and claimed they engaged all of the neighbors in multiple public meetings, which indicated that parking was a concern. They acknowledged that on-street parking was readily available in the neighborhood, but stated that special events may create parking issues that justified the proposal.

The Applicants stated that 150 children and 70 employees would be on-site, noting that the project provided all the off-street parking required by the City's Zoning Code; they noted that there were 27 spaces in the parking lot fronting 6th Street, which was primarily for daily loading and unloading of children, and 70 spaces along 7th Street which would accommodate all of the parking for staff on-site. The Applicants noted that there was a loading dock, service area, and vehicular turnaround off Muench Street that provided access for food deliveries.

The Applicants stated that the proposed parking lot would serve multiple community functions, including gathering and event space. They stated that the Milton Hershey School did not develop office space or housing and that extra parking was important to the facility's functionality.

The Applicants summarized the scope of the proposal with respect to the five criteria required for the approval of a Variance request. They claimed the request was a dimensional variance and not a use variance, and stated their belief that the existence of Muench Street between the subject property and the primary facility constituted a hardship unique to the site. The Applicants reiterated their position that there was no other practical use for the lot because it was small and because nothing but a surface parking lot would be practical for the neighborhood. They stated that if a building of some sort would be constructed on-site, it would require off-street parking. The Applicants acknowledged that the principal development on the block to the north contained 97 parking spaces when only 95 were required per the Zoning Code, but claimed there would be no parking available for their special events, and thus people would have to park on the street. The Applicants stated that they would be holding events for the benefit of the community, which required off-street parking, and thus provided justification for their request.

The Applicants claimed that they did not create the hardship, but acknowledged that their argument was based upon "the statutory language in the ordinance."

The Applicants claimed that their request represent the minimum deviation from the zoning regulations necessary to provide relief. They reiterated that their justification was based upon the presence of Muench Street between the subject property and the site of the primary facility. They

stated that the requirement for a variance was an unnecessary interpretation of the zoning ordinance. They requested a recommendation of approval to the Zoning Hearing Board from the Planning Commission.

Commissioner Alsberry the Planning Bureau staff if they had a response to the Applicant's statements. Mr. Knight stated that reasons for the Planning Bureau's recommendation of denial was outlined in the case report and noted that, by the Applicants' own admission, their justification was based upon the language in the Zoning Code, meaning that the property itself had no unique conditions which created a hardship that required remedy through approval of a Variance request. He noted that the Applicants were claiming that the presence of a public right-of-way, which existed throughout the city in a dense grid, was somehow unique to their site.

Mr. Knight also reminded the commissioners that the principal development in the block to the north had all of the off-street parking required by the Zoning Code. He noted that there were at least 30 on-street parking spaces along the frontages of the project site, and thus they had enough parking on the primary project site for the daily needs of the facility, as well as ample on-street spaces to serve the occasional special events the Applicants referenced.

Mr. Knight addressed the Applicants' assertion that there was limited on-street parking available in the surrounding neighborhood; he provided the commissioners with photos of the 600 blocks of Muench Street and Dauphin Street taken at approximately 5:00 PM on October 31st, which demonstrated that each of the blocks only had a few cars parked on them. He also provided the commissioners with occupancy lists for the properties along those blocks, noting that he had requested information from the Codes Bureau regarding their status. Mr. Knight noted that many of the buildings along Dauphin Street were deteriorated and appeared vacant, and confirmed that of the 39 properties on the two blocks, only 25 were occupied with 12 being vacant and 3 being condemned. He reiterated that the photos demonstrated ample availability of parking on the adjacent blocks, and noted that the argument that people who would otherwise park on the lot would overwhelm the neighborhood was without evidence.

Mr. Knight noted that the Applicants' argument was essentially that in a year or two, there might be parking issues in the neighborhood, but that the argument was not supported by evidence which actually proved the opposite. He stated that current observations indicated that parking would not be a problem and that the Applicants could not know whether it would be a problem until the building was constructed and activities occurred on-site. He stated that if, in the future, the activities on-site did cause traffic congestion, they would have an argument to come back before the Planning Commission and Zoning Hearing Board to request approval of the project. Mr. Knight reiterated his position that the project once completed was unlikely to burden the neighborhood with parking issues.

Mr. Knight also referenced the Applicants' statement that the current request was not a "use variance," and disagreed, noting that the Zoning Code specifically stated that the intent of the Commercial Neighborhood zoning district was to create a mix of residential and commercial uses to activate streets and neighborhoods, and stated that a surface parking lot was the opposite of this intention. He stated that the proposal was actually the maximum deviation from the

zoning regulations, and not the minimum as stated by the Applicants, because it represented the antithesis of the language in the Zoning Code.

Mr. Knight stated that while he appreciated the Applicants' proposal to anticipate and ameliorate impacts from their project, they did not have the justification to receive the necessary zoning relief. He also stated that he didn't believe the proposal was utilizing the property as envisioned by the Zoning Code.

Mr. Knight noted that the Planning Commission and City Council had adopted a new Comprehensive Plan in late 2021, and that the document envisioned the corridor as a mix of higher-density residential and non-residential uses, and that approval of a surface parking lot along the corridor would counteract that vision. He noted the various large developments that were currently in process along 6th Street, and noted that the Planning Commission should anticipate additional mixed-use developments that were more in conformance with the Zoning Code and the Comprehensive Plan. Mr. Knight noted that these projects demonstrated a need and a demand for higher-density, mixed-use developments in the corridor, and stated that the development of a half-acre for a surface parking lot would be a lost opportunity to enhance the neighborhood.

Mr. Knight stated that if the Planning Commission was willing to overlook the discrepancy between the current proposal and the Comprehensive Plan's vision for the corridor, then it threw into question the viability and future of that vision and whether the document warranted support in helping to guide development in the city.

Commissioner Alsberry asked the Applicants if they wanted to respond to Mr. Knight's testimony. The Applicants stated that the parking wouldn't only be for special events, and that the 97 parking spaces included on the site of the facility to the north wouldn't be enough. They stated they would be providing family services, and expected that there would be employees of those service providers on-site, and that family members would spend the day on-site accessing services as well. They stated that some of the families being served would be 200% below the federal poverty line. The Applicants claimed that there would be an excessive demand for parking spaces on a daily basis.

The Applicants noted that they respected the Planning Bureau's adherence to the Comprehensive Plan, but stated their belief that the landscaping along 6th Street would beautify the lot and thus that the project supported the Comprehensive Plan. They stated that the special events they had referenced would also utilize the parking lot in addition to the needs of the school.

Commissioner Alsberry stated that he had mixed feelings, as he understood the Planning Bureau's position relative to the Zoning Code and the Comprehensive Plan, but that one of his primary concerns in reviewing projects was ensuring an appropriate amount of parking. He noted that State employees used to park along 6th Street, creating a lack of parking, and that in two years' time, State employees may be back in the office on a more regular basis. He stated that he wasn't sure that the proposed parking lot would be a problem. Commissioner Alsberry stated that the neighborhood would be crowded in two or three years, and that he felt that the project would relieve that parking congestion.

Commissioner Alsberry asked whether any of the commissioners had comments or concerns about the project.

Commissioner McKissick stated that he admired the Applicants' commitment to the city, but noted that since he had abstained from previous discussions regarding the Land Development Plan for the main facility, he would abstain from commenting on the current application as well.

Commissioner O'Toole noted that of the larger development projects the commissioners had reviewed over the past few years, the Catherine Hershey School development was one of his favorites; however, he noted that other zoning relief proposals for surface parking in the city often faced an uphill battle in getting approval and that he thought the current proposal faced a similar challenge. He stated that he wasn't sure the Applicants had demonstrated a hardship to justify the request, and noted there were other viable uses for the site. Commissioner O'Toole stated that the Applicants hadn't effectively demonstrated the need for the parking lot, noting that all of the staff members had parking space on the primary project site. He stated that he was currently in favoring of voting to deny the request.

Commissioner Reed asked how many spaces the Applicants were proposing to develop on-site; they confirmed that the proposed parking lot would feature 30 spaces.

Commissioner Green stated that she thought the Applicants had designed an attractive parking lot, but noted that it was only a parking lot. She stated that while there was sometimes a need for additional parking, she did not want to see empty parking lots, and noted that projects sometimes stated a need for additional parking which went unused. Commissioner Green stated that she understood there might be daily use of the lot, but felt that the primary facility had more than enough parking on-site to accommodate the anticipated demand. She noted that the Applicants could have developed additional parking on the principal building site as a matter of right. Commissioner Green stated that while she was unsure of which direction she would go with her vote, she was leaning towards voting to deny the request.

The Applicants noted that the existing parking on the principal site met the legal requirements of the Zoning Code, but that they did not meet the functional requirements of their facility, and that they felt they would need far more than the 97 spaces they had on-site on a daily basis. The Applicants reiterated that they would have a lot of services for households making less than 200% of the federal poverty limit, and that group would comprise approximately 20% of their student body. They provided a general list of services that would be provided in the facility.

Mr. Knight noted that the Applicants' mission was laudable, and that the primary facility would provide low-to-moderate income families with much-needed services, but noted that households with incomes around the federal poverty line often did not have access to a vehicle and usually could not afford one, noting that the annual estimated cost of operating a vehicle was approximately \$9,000, per AAA. He stated that the Applicants' assertion that these households would drive one or two cars to the facility was unreasonable. He noted that the Applicants were intending on providing a bus stop to give students and their families the option of mass transit, and they had also testified in their Land Development Plan review that they would be providing

transportation services. Mr. Knight noted these aspects undermined the Applicants' justification for the accessory parking lot.

Commissioner Marek stated that she appreciated the perspectives on both sides of the issue, but that it ultimately came down to the criteria for approving Variances and that she was having difficulty agreeing with the Applicants' assertions regarding the hardship issue. She noted that it was a well-landscaped parking lot. She agreed with Planning Bureau staff that currently there was ample on-street parking in the surrounding neighborhood, and stated that she expected to see more development, particularly housing units, in the surrounding vacant blocks. She stated that it would likely increase the need for parking in the future, but noted that the lack of existing development meant there was no current need for a parking lot. Commissioner Marek stated that the Applicant should consider providing documentation that outlined the types of activities that might occur in the future and the projected parking demand to justify their request.

Commissioner Alsberry asked whether the Applicants could return at a future date to resubmit their request for a surface parking lot. Mr. Knight confirmed that was the case, and noted that the Planning Bureau would be willing to reconsider the proposal after completion of the primary facility and observation of parking issues in the surrounding neighborhood. He noted, however, that the proposal was currently speculative and was intended to address a potential issue that may or may not arise for a few years.

The Applicants stated that they did a significant amount of research and knew what their needs were, which was why they were proposing the surface parking lot now. They stated that waiting until there was an issue would be challenging for them and the neighborhood. They stated that a nearby neighbor had attended previous meetings and raised concerns about parking. The Applicants claimed that they were trying to anticipate a problem and address it ahead of time.

Mr. Grover noted that the legal question involved in a Variance was not whether a proposal was meritorious, but whether an application met the five-part legal standard; he stated that if the presentation to the Zoning Hearing Board was the same as the one to the Planning Commission, the application would be denied on the grounds of not meeting the criteria. Mr. Grover noted that the primary issue was that they had purchased the property in its current state in August 2022 and they were claiming they couldn't use the property for any other purpose beyond a surface parking lot, which demonstrated that they were creating the hardship. Mr. Grover noted, however, that there may be other processes that the Applicant could pursue to achieve the same result. He noted that the Applicants were asking the Planning Commission and Zoning Hearing Board to grant approval without meeting the criteria when those boards had previously denied other requests based on a failure to meet the applicable criteria. Mr. Grover noted that the boards were required to maintain a consistent standard of review.

Mr. Grover advised the Applicants to withdraw or table their application review, and reconsider their approach to the project. He reiterated that the Applicants were facing substantial procedural obstacles that presented a challenge to the boards.

Commissioner Alsberry asked if there was anybody for or against the project. There were no comments.

Commissioner Alsberry asked whether any of the commissioners had other comments or questions. Commissioner Marek asked whether the site was outside of the Competing Parking Area; Mr. Grover confirmed that it was. She asked whether the on-street parking was metered or whether there were proposals to do so; Mr. Grover confirmed that the surrounding streets were not metered, but that there were may proposals regarding parking regulations throughout the city and that the issue may come up at some point in the future.

The Applicants stated that they would withdraw their application based on the recommendation of Mr. Grover.

Commissioner Alsberry asked whether they needed to make a motion and take a vote on the withdrawal request; Mr. Knight and Mr. Grover confirmed that they did not.

OTHER BUSINESS:

Mr. Knight stated that he would be developing and circulating the draft 2023 Meeting Schedule by the end of the week, and requested that the commissioners respond with any known conflicts on meeting dates. He stated that he wanted to be able to advertise the required legal ad in advance of the December 2nd submittal deadline for the January 2023 meetings.

ADJOURNMENT: 8:05 PM

Commissioner O'Toole moved, and Commissioner Green seconded the motion, to adjourn. The motion was adopted by a unanimous vote (6-0).