

DOC. 88; LME 20-1 – SUMMARY MINUTES OF SPECIAL PERMIT HEARING HELD SEPTEMBER 29, 2020 FOR PETITION FROM ATTORNEY MICHAEL MIGLIORI ON BEHALF OF FROSTY NUG HAVERHILL, LLC REQUESTING SPECIAL PERMIT TO OPERATE AN ADULT USE MARIJUANA ESTABLISHMENT AT 1181 BOSTON ROAD; ASSESSOR’S MAP 732, BLOCK 777, LOT 2

SUBJECT: Doc. 88; LME 20-1 – Summary minutes of special permit hearing held on September 29, 2020 for Petition from Attorney Michael Migliori for Frosty Nug Haverhill, LLC requesting special permit to operate an adult use marijuana establishment at 1181 Boston Road; Assessor’s Map 732, Block 777, Lot 2

Present: City Council President Melinda Barrett, Vice President Colin LePage, Councillor Joseph Bevilacqua, Councillor John Michitson, Councillor Thomas Sullivan, Councillor Timothy Jordan, Councillor Michael McGonagle, Councillor Mary Ellen Daly O'Brien and Councillor William Macek.

City Clerk Linda Koutoulas: Document 88, LME 20-1 – Petition from Attorney Michael Migliori for Frosty Nug Haverhill, LLC requesting Special Permit to operate an adult use marijuana establishment at 1181 Boston Road, Assessor’s Map 732, Block 777, Lot 2. Comments from City Departments are included.

Councillor McGonagle recused himself and left the Chamber

President Barrett opened the hearing.

Attorney Migliori represented Frosty Nug Haverhill, LLC requesting a Special Permit to operate an adult use marijuana establishment at 1181 Boston Road. He introduced Jack Hudson, Chairman of Frosty Nug, principles Mike Gettings, Dr. Kristyn Pistone, and Dr. Dominick Garibaldi. Team members Brian Belts, Brendan Kavanaugh, Scott Thornton, Steven Stapinski and Matt Juros. Each person spoke about their area of expertise except for Brian Belts, who was not available.

The location of the LME (licensed marijuana establishment) is First Choice Auto. The footprint of the building will remain the same. There are 2 driveways, one will be closed. The traffic counts were done in January and February of 2020. There will be no left turn when exiting the site. There will be 22 parking spaces on site for customers. Employee parking will be off-site with a remote site to be determined. They propose 4 customers per 15 minutes for 2/3 weeks by appointment only. They will start with 5 points of sale but will have room for 8. They will have state of the art surveillance system with 24/7 video surveillance, on site security and use of a secure sally port. There will be no on-site consumption. 3% of gross sales will benefit the city and 3% towards local option tax. \$25,000 will be contributed to local charity chosen by the city.

Joy Smith spoke in support. Barbara Daneau had a question about traffic. Those speaking against/opposed were Lesley Hilton, Jonathan Campbell, President of Farrwood Green 2 condo association on behalf of all 6 other condo associations in the Farrwood Drive complex except for one individual. They voiced their strong opposition due to traffic and safety concerns. He cited accidents and the fact that there is a blind curve accessing the site on 4 lane highway. The site is located between 2 residential homes. Sherry Diangilis stated she lives directly behind the site which is a residential neighborhood with no sidewalks that is heavily used by walkers, kids riding bikes and scooters. It is also a cut thru from Ferry Road to Cross Road. Georgia Simms spoke about traffic and the on-line petition that was submitted to City Council opposed to the siting of Frosty Nug at this location. If customers can’t turn left when exiting the site, they will end up taking a left into Farrwood Drive or Bradford Street to turn around.

Scott Thornton of Vanasse & Associates informed that the blind curve will be addressed in the future that will increase the line of sight and that they did include the Amazon traffic in their study.

President Barrett closed the hearing.

Councillor Sullivan motioned to approve the special permit with a second from Councillor Daly O'Brien.

Councillors expressed their grave concerns about safety and existing traffic on Rte. 125, proposed traffic and questioned the ability to ensure that customers would not take a left hand turn out of the site. They referenced City Engineer's concern about the traffic; the lack of 18 feet right of way width access for fire apparatus in back of the building and wetlands in the rear area.

During the Councillors' discussion the following conditions were stated:

There would be no left-hand turn onto Rte. 125 North; police presence at applicant's expense to monitor for a period of time; privacy fence for neighbors with good visibility and curbing as requested; appropriate width for fire apparatus in rear. Police department, Fire department and City Engineer will be in charge of approving any increases in appointments and will have the right to reduce as they see fit but no lower than original appointment schedule. Mass DOT will have to redesign creating a left turning lane on Rte. 125 North.

On motion of Councillor Sullivan to amend the motion to include above conditions with second from Councillor Daly O'Brien.

City Clerk Koutoulas: Council Vice President LePage-no, Councillor Bevilacqua-no, Councillor Michitson-no, Councillor Sullivan-no, Councillor Jordan-no, Councillor Daly O'Brien-no, Councillor Macek-no, President Barrett-no. 0 yeas, 8 nays, 1 abstain (McGonagle)

President Barrett: Special Permit does not pass.

Respectfully submitted,

Barbara S. Arthur
Executive/Administrative Assistant
Haverhill City Council

December 16, 2020

REASON FOR VOTE - DOCUMENT 88 – LME 20-1
FROSTY NUG HAVERHILL, LLC
1181 Boston Road
Special Permit - September 29, 2020

President Barrett: The site plans presented to city departments for comment, Ch. 255-80 (I) did not adequately accommodate full access requirements called for by the Fire Department. The space required for fire apparatus to access the building was lacking. The letter from the Conservation Department included wetlands issues. The City Engineer had issues with the safety of travel both into and out of the site. It appears that it is questionable that this site would provide for the safe movement of vehicles traveling – Ch. 255-80 E (5).

Councillor LePage: I voted not in favor of this special permit application, with the included conditions and stipulations stated at the special permit hearing, as it does not meet the requirements stated in the Chapter 255, Article XIX LME-OZ ordinance; specifically, section 202, subsection C; where it requires "the site plan ... will be reviewed by the relevant City departments and their comments/recommendations included in a report to the City Council prior to the special permit hearing." I wholeheartedly agree with the Planning Director and the Engineering Department comments on the very serious and relevant public safety issues concerning large volumes of traffic entering and exiting this particular site location (Ch. 255-80, section E, subsection 5) as well as the Fire Department comment that the existing building location on the site would not allow for proper access of fire apparatus. Additionally, the site plan drawing showed that it did not meet the requirements for minimum lot area, minimum lot frontage, minimum side and rear setbacks.

Councillor Bevilacqua: I voted against the special permit as the project did not meet all the requirements for a special permit. The project proposed provided no redeeming aspect to the city. The traffic issues were of great concern as reported by both the City Engineer and Planning Director. The residential neighborhood abutting the project would be harmed.

Councillor Michitson: I voted against the special permit because of the dangerous traffic issues even after proposed mitigation.

Councillor Sullivan: I voted against the special permit application because it did not meet the requirements set forth in Chapter 255, Article XIX pertaining to site requirements as stated by the City's Engineering, Fire and Conservation Departments. It failed to adequately address traffic safety and safe access and egress concerns on Rte. 125.

Councillor Jordan: My primary reason for voting against the special permit for the Frosty Nug was the City Engineer's safety concern due to traffic at the proposed location.

Councillor Daly O'Brien: I voted no on this special permit because there was a significant difference between the traffic study done by the applicant and the recommendations we received from our City Engineer regarding site ingress and egress.

Councillor Macek: I voted against the Special Permit request for the Frosty Nug as I felt that the application was flawed in its on site requirements as stated by various department heads (Engineering, Fire & Conservation). It failed to address traffic safety concerns that would require Route 125 redesign and/or improvements from Mass DOT that should have been in place prior to the Special Permit Hearing.