

CALL TO ORDER

Mr. Taylor called the meeting to order at 7:37 p.m. and stated it was open to the public in compliance with Public Law 1975, Chapter 231, Sections 4 & 13.

FLAG SALUTE

ROLL CALL: **Members Present:** Hughes, O'Leary, Van Sickle, Potter, Madewell, Deller, Andersen, Taylor.

Members Excused: Suljic, Leuthe,

Members Absent: None.

Also Present: Ursula Leo, Esq.
Nevitt Duveneck, PE
David Banisch, PP

MINUTES: September 26, 2019

A motion to approve the minutes of the September 26, 2019 meeting date, with the noted corrections was made by Mr. O' Leary. It was seconded by Mr. Hughes and passed with a roll call vote. Ayes: Hughes, O'Leary, Van Sickle, Potter, Madewell, Deller, Andersen, Taylor.

COMPLETNESS / HEARINGS / CONCEPT:

1. Hughes, Jesse B: 20, L:4.03 VAR19-5 (Deemed Incomplete 9/26/19)

The Board Secretary advised the Board that Mr. Hughes was still working on obtaining his survey and asked that his notice be carried to the next meeting.

A motion to carry the notice for the hearing with no further notice was made by Mr. O'Leary. It was seconded by Mr. Madewell and passed with a roll call vote. Ayes: Hughes, O'Leary, Van Sickle, Potter, Madewell, Deller, Andersen, Taylor.

2. DeVenezia Realty, LLC B: 4, L:2.04 (Deemed Incomplete 9/26/19)

Mr. Taylor asked if there have been any new material submitted for the application to which the Board Secretary said no.

3. Harmony Foundation of New Jersey B:7 L:25 PMSP19-3, VAR19-4
(Deemed Complete 10/17/19)

Ms. Ann Marie Rizzuto, Esq. of the law firm Weiner Law Group, LLP, said she was representing the applicant. She asked the Board Chair if she could take a few minutes to speak with the Board Attorney in private over a legal matter. The Board Chair allowed the brief meeting.

Ms. Leo advised the Board that the applicant had filed for a use variance so the Governing Body Members would need to step down. Mr. Hughes and Mr. O'Leary stepped down from the Board.

Ms. Leo explained that with a use variance, the applicant is entitled to have seven board members vote and must attain five affirmative votes. She said the applicant is allowed to proceed and at the end of the hearing ask to have a seventh board member either listen to the recording or read a transcript and then be eligible to vote.

Ms. Leo asked Ms. Van Sickle what her company was to which she said Lafayette Auto Parts. Ms. Leo advised that the current owner of the property has purchased parts from Ms. Van Sickle's company. Ms. Leo asked Ms. Van Sickle if she had a conflict with the property owner or with the applicant, Harmony Foundation of NJ to which she said no. Ms. Leo said for the purpose of the record Ms. Van Sickle was declaring she had some sort of relationship with the property owner. Ms. Leo asked Ms. Van Sickle if the property owner purchasing parts from Ms. Van Sickle would in any way impair her objectivity to hear the application to which Ms. Van Sickle said no.

Ms. Rizzuto said the property is located at 144 Route 94, also known as Block 7 Lot 25 and fronts on Route 94 as well as Morris Farm Road. The property consists of approximately 132

acres and less than 20 acres would be developed over time. Formerly Schering Plough and Merck were located at the site.

Ms. Rizzuto advised the Board that proper notice was given for the hearing. She said the Board at its October 17, 2019 meeting voted on waivers and completeness and waivers were granted and completeness declared. She said the application was submitted and then amended after receiving the Board Engineer's report.

Ms. Rizzuto explained that while the applicant is a non-profit entity, they fully expect that there will be an imposition of real-estate property taxes on this property as permitted by law. The applicant recognizes that the law requires the imposition of real-estate taxes.

Ms. Rizzuto said she has three witnesses that will testify which are the owners Yahuda Meer and Shaya Brodchandel, Owen Dykstra, PE and Jessica Caldwell, PP.

The proposal is for preliminary site plan for the construction of a new facility for approximately 338,000 square feet, which was labeled P1 on the plan. She said they are renovating an existing building, which is approx. 34,000 square feet and are asking for preliminary site plan approval of a third building which will be approx. 22,000 square feet. The fourth building is the small one family house on the same lot however located in the R-5 zone. The remainder of the lot is in the Light Industrial zone. Ms. Rizzuto said the house is a conforming use in the zone however it does have some non-conformities, which she will ask the Board to recognize.

Ms. Rizzuto said they are seeking a use variance for the legal growing, processing and distribution of cannabis otherwise known as marijuana. Only medical marijuana is legal in New Jersey however her client is requesting the Board approve the use variance for the entire lot for legal marijuana because if recreational marijuana use becomes legal in the future, this property will be appropriate for recreational marijuana as well. She said the application only presents wholesale propagation of medical marijuana in Phase One. Ms. Rizzuto testified that no people can go to this facility and buy marijuana for medical use or any other use. She said the medical marijuana will be grown, dried out, processed, packaged and shipped by an armed guard truck off the property to other medical marijuana facilities. She said this is a wholesale operation and there are no sales on the property and no retail on the property proposed for Phase One. She said they will ask for a use variance for the entirety of the property.

Ms. Rizzuto said the building labeled P-1 is the growing, drying and packaging facility. She said P-2, which is a new 22,000 square foot building they do know what the internal function of that building will be yet. She said it is labeled as a greenhouse on the plans however, they are not sure what they are going to do with it and they will advise the Board at final site what will be in the building. She said it will be a permitted use and will be directly related to the cannabis function. She said it might be the administration area for the research and development or a cafeteria for the employees. Building E-1 on the plans is an existing 31,000 square foot building that Schering-Plough used which will be renovated. She said it is labeled as administration on the plans; however, they are not sure that is what it is going to be. She said at final site plan the Board will get detailed plans for the building.

Ms. Rizzuto said her client was one of the first six businesses to be licensed by the State. She said this is new to the northern New Jersey corridor and explained the latest legislation. She said the state is doing heavy regulation of the use and they approve everything that happens in the building. She went over the bulk variances with the Board.

Mr. Owen Dykstra was sworn in by Ms. Leo. He gave his qualifications, which were accepted by the Board.

Mr. Dykstra presented a color version of the existing site plan dated October 22, 2019 which he marked and entered as exhibit A-1. He said the site is approximately 132 acres and is zoned Light Industrial. He said the property fronts Route 94 and Morris Farm Road and has access off Route 94. He described the topographical landscape to the Board. He said they have submitted to the D.E.P. for an L.O.I. and a wetlands buffer. He explained the map and the new buildings to the Board. He said they would be reusing the existing water systems and removing the sewage treatment facility since they cannot get a permit to discharge to surface water. He said there is an existing stormwater management system as well.

Mr. Dykstra presented a Full Buildout plan dated 10/24/19, which was marked, and entered as exhibit A-2.

Mr. Dykstra explained the concept plan to the Board. He said it will utilize the two existing buildings and explained the buildings to the Board. He said the intent is turn E2 back to a residential use for the facilities manager. He said the buildings identified as E3-12 would be demolished. He explained building P2. He said the location might be moved slightly. The building will be 22,000 square feet and no larger. Building P4 will be a two-story building at approximately 93,000 square feet and used for processing. The site will have 320,000 square feet of buildings at full buildout with 320 employees.

Mr. Dykstra did a traffic study at full build out. He said they have requested a letter of no interest from the D.O.T. since the access is not changing. He said the existing utilities can handle the needed use and they have applied for a new N.J.D.E.P. permit for a new treatment plant.

Mr. Dykstra said the site is in an isolated location with a large buffer around it. The site also has a State Access permit already.

Ms. Rizzuto clarified what part of the project will be done in each of the phases.

Mr. Dykstra presented a color version of sheet 1 of 1 of the submitted plans dated 10-22-19 entitled Presentation Plan, which was marked and entered as exhibit A-3.

Mr. Dykstra explained the plan to the Board. It showed the site improvements associated with the project. He said the project would be built in two phases. The first phase will be the renovation and construction of building P1 and Phase 2 is the demolition of all of the other buildings behind it. He explained the renovation of building P1. He said it would be renovated for the administration and lab space. The siding will be repaired and replaced.

Mr. Dykstra presented a photo by Acro Design and Build entitled Conceptual Render dated 6/14/19 which was marked and entered as exhibit A-4.

Mr. Dykstra said it was a rendering of the proposed building. The building will be a steel frame building with insulated panels, the entrance will be precast concrete walls and there are no windows except for at the end of the building to control the light. The metal roof will be hidden behind the façade. Mr. Dykstra explained the stormwater runoff from the roof. He explained the interior of the building to the Board.

Building P1 will be built on the southerly part of the site and explained the setbacks to the Board. The height of the building will be 38.4 feet. Mr. Dykstra explained the different height calculations to the Board. He said the requested height is needed for the growth and production of the cannabis. He said the mezzanine helps reduce the footprint of the building. Without the proposed height, there would be a 35% increase in impervious coverage.

Mr. Dykstra explained the driveways to the Board. The guard shack is 180 feet back from the road and will control access to the site. The guard shack is setback to allow for nine cars to be stacked as they go through security screening and allows for visibility of the front entrance and the parking lot. They will remove trees to allow visibility to the parking lot. Ms. Rizzuto said the State heavily regulates the security of the site. Mr. Dykstra said this will be the only entrance to the site. Mr. Banisch asked the main driveway was the single means of access to the site to which Mr. Dykstra said yes. Mr. Dykstra explained the stacking of cars as they go through the controlled gate. At full buildout there will be 350 employees operating 24 hours per day. The employees will come to work in three shifts and the shifts will be staggered in 15-minute increments. This is a function of employees entering the building as well. Mr. Dykstra explained the process to the Board. If in the future this is a problem, they will add a second lane. Mr. Duvneck asked if the operation would be a 24 hour operation from the start to which Mr. Dykstra said yes.

Mr. Banisch asked how the municipality would enforce the second entrance lane being added. Mr. Dykstra said it could be requested now or at the discretion of the Municipal Engineer. Mr. Dykstra felt it should be left to the Board Engineer if it becomes necessary.

Mr. Dykstra explained the site circulation plan to the Board. It will be one-way circulation behind the building. There will be one loading area within the building with a drive through access and two loading dock lock-ins. Deliveries will be one tractor trailer per week and the trucks leaving the site will be sprinter vans. Mr. Dykstra explained the parking areas to the Board. For security reason it is important to have the parking near the front of the building. The applicant is requesting a variance to allow 100 percent of the parking in the front of the building.

Mr. Dykstra said there will 322 parking stalls. They are requesting a decrease in the number of required parking stalls because they will not need the spaces. The ordinance requires 980 stalls however, the applicant only needs 322. There was a discussion on the parking spaces need and the location.

All existing lighting will be removed and replaced with downward facing, LED lighting, which will provide adequate lighting for security purposes. They will install a security fence around the entire property, which will be eight feet tall with barbed wire at the top.

Mr. Dykstra explained the Phase 2 demolition. It is intended to happen at the same time as the construction of the building but if it is not done they do not want to have it hold up the Certificate of Occupancy of Phase 1. Mr. Dykstra explained the HVAC and generators to the Board. He will provide details at final site plan.

Mr. Dykstra explained the stormwater to the Board. He explained the nine existing wells and water tank. Ms. Van Sickle asked how much the water tank holds to which Mr. Dykstra said 90,000 gallons and they may add an additional tank.

Mr. Dykstra explained the N.J.D.E.P. permit and said Phase 1 could be on a septic if need be. He showed the Board the disposal beds for the septic.

Mr. Dykstra explained the earthwork to the Board and said no material will leave the site except some topsoil. He said there is no issue with contamination that they know of.

Ms. Van Sickle asked where the trash would be located to which Mr. Dykstra said it will be located inside the facility.

Ms. Rizzuto went through Mr. Duveneck's report. Mr. Duveneck clarified the square footage of the buildings and the total number of parking spaces required. Mr. Duveneck went over his report with the Board. Mr. Dykstra clarified issues brought up by Mr. Duveneck.

Ms. Rizzuto said the State Health department would have the final approval for the cannabis production. They will have permitting and licensing done as the project moves along. Mr. Duveneck requested the buffer around the R-5 zone be shown on the map. Ms. Van Sickle asked if they will be doing any renovations to the house. Mr. Dykstra said yes they will renovate it for the caretakers use. Ms. Van Sickle asked if the only access to the house is through the sight to which Mr. Dykstra said he did not know. There was a discussion on where the fencing will be located.

Mr. Madewell asked if the height of the perimeter fence is dictated by the State to which Mr. Dykstra said yes.

Mr. Taylor asked if there would be lighting on the building to which Mr. Dykstra said no. Mr. Taylor asked about odor. Mr. Dykstra said the facility is fully closed and has an air filtration system that does no discharge to the outside.

Ms. Rizzuto said she received a report from the Lafayette Fire Official. Mr. Dykstra said he agrees with everything in the report. He said the State mandates the facility and if they are agreeable to the Fire Official's requests, then the applicant will do it. Ms. Rizzuto said she will work with the Fire Official to make sure they are compliant.

Mr. Banisch said the applicant has addressed and agreed with everything in his report. He said he could not find a maximum fence height in the ordinance. He was concerned they may need a variance for the fence height. Mr. Banisch went through his report for the Board and addressed how the applicant has agreed to his comments.

Ms. Van Sickle asked about the hours of construction and how many people would be working on the building. Mr. Dykstra said it would be normal construction days and hours. She asked how long it would take to which they did not have an exact answer.

Mr. Banisch said the applicant would need a variance for the fence. Ms. Rizzuto said they have noticed for any variances that may arise and she will have additional testimony on the matter.

Mr. Madewell noted the application stated no cafeteria on site. Mr. Dykstra said it is not healthy for the growing of cannabis so it would not be in building P1. Ms. Rizzuto said Mr. Brodchandel would give more testimony on that. Mr. Taylor asked how the people leaving for lunch would affect the traffic report. Ms. Rizzuto said the traffic report only deals with the 7am to 7pm shift so they will need to update the traffic report. Mr. Dykstra said the lunch breaks are controlled. The applicant agreed to update the traffic report. There was a discussion on the traffic report that was submitted. Mr. Dykstra said the traffic report was based on the Schering Plough use and he felt this use would be very similar. Mr. Banisch felt the number of employees that Merck had is significantly different from the amount proposed by this applicant. Mr. Duveneck noted Route 94 is a State highway and they will have to sign off on the traffic. He said the only part that concerns him is the queuing of the cars.

Mr. Taylor opened the meeting to the public.

Mr. Sean Ritson of 49 Race Road, Lafayette addressed the Board. Mr. Ritson's property borders the applicant's property and he expressed a concern with the chemical processing of marijuana. Mr. Dykstra said this is a question for Mr. Brodchandel. Mr. Ritson expressed a concern that the wells of the surrounding properties will dry up. Mr. Dykstra said there is adequate water in the area. Mr. Ritson asked how loud the generators will be to which Mr. Dykstra said they have to abide by the State guidelines. He felt it is highly unlikely that residents on Race Road will hear any noise from the generators. The generators will not run constantly; they will be exercised on a weekly basis. The HVAC equipment will be located approximately 1000 feet from Race Road.

Mr. Ken Harrington of 223 Warbasse Jct Road, Lafayette addressed the Board. He felt when the total build out is completed, there would be about 30 acres of impervious coverage on the site and that would be bad in a storm. He felt the driveway access would not hold nine cars. He calculated about 25 cars would be stacking up at any one given time. He said he does not trust what the D.O.T. says and thinks it is an accident waiting to happen. He said he thinks there needs to be a turn lane in both the north and south direction. Mr. Taylor said that is not within the Township's jurisdiction. Mr. Duveneck said the Board could request the State do a thorough investigation however, it cannot mandate any changes to the roadway.

Mr. Carl Luthman of 17 Brandywine Court, Lafayette addressed the Board. He expressed a concern that the existing tree buffer along Route 94 would be removed and the site would be more visible. He asked what the hardship is for removing the buffer since there was so much property. Mr. Dykstra said the Planner would address the hardships. Mr. Luthman asked why the building could not be moved back on the property. Mr. Dykstra said they have worked to save as many trees as possible. He said the back of the property slopes. Mr. Luthman asked if the applicant was asking for preliminary approval of a building that the applicant has no idea what they will use it for to which Mr. Dykstra said it will be used for part of the cannabis process. Mr. Luthman asked what the height of the roof is to which Mr. Dykstra said 37 feet. He said the parfait is the same height. Mr. Luthman asked when the buildings would be demolished. Mr. Dykstra said demolition will start during the construction phase however may not be completed before the Certificate of Occupancy is issued. Mr. Luthman asked if the existing septic could handle the Phase 1 construction. Mr. Dykstra said the calculations show a 1500 gallon per day and 2000 gallons are allowed.

With nobody else coming before the Board, the meeting was closed to the public.

Mr. Banisch asked if the whole site could be shifted 50 feet to the north. He asked if the building could be made narrower. Mr. Dykstra said it is not easy to shrink the size of the building however, the parking lot could be changed. Mr. Taylor asked if Mr. Dykstra could look into saving the tree buffer to which he said yes.

Mr. Taylor opened the meeting to the public again.

Mr. Will Jiroux of Route 15, Lafayette addressed the Board. He asked if the traffic study is comparing the proposed use with the former use to which Mr. Dykstra said they compared what was the use to what is being proposed. Mr. Jiroux felt the traffic on Route 94 has increased by 40% to 50% since Schering Plough has left the site. Mr. Dykstra said that does not change the number of trips in and out of the site.

The meeting was closed to the public.

The Board took a 5-minute break.

Ms. Leo swore in Mr. Shaya Brodchandel, CEO of Harmony Foundation. Mr. Brodchandel said Harmony Foundation is a non-profit organization and this is required to get a license in New Jersey. Ms. Rizzuto asked if Mr. Brodchandel agrees that the applicant recognizes that there will be imposition of real property taxes as permitted by law to which he said yes.

Mr. Brodchandel said there are constant updates to the medical marijuana program. It is a very heavily regulated industry. Harmony Foundation is currently licensed to grow, process and dispense medical marijuana.

Currently Harmony Foundation is in Secaucus, NJ. They have been operational to dispense to the public since July 2018 but growing since October 2017. Every patient must be licensed and carry a card and harmony Foundation must verify the card. Nobody can just walk in and purchase cannabis. Harmony Foundation must register every patient that walks in.

Mr. Brodchandel said they grow and dispense in Secaucus. In Lafayette, they are going to grow and process. They will not dispense and no patient will be able to walk into Lafayette to purchase.

Mr. Brodchandel said they have a great relationship with the town, police, fire department and neighbors in Secaucus. They are licensed to have up to three retail locations. In Lafayette, they will only grow. Mr. Brodchandel explained the three sections on NJ and how it is divided up. Harmony Foundation is licensed in the North area. He said the retail is located in populated areas.

Mr. Brodchandel described the security. He said they have a security team with a full staff, alarms, motion sensors, and cameras on the exterior. In Lafayette, they will have fencing as well. Their security team works 24/7/365. The State Department of Health monitors all security cameras. The State Department of Health monitors the operation and every area with plants or production.

Mr. Brodchandel said the employees have a designated access and cannot walk around facility. The guards are former State Troops and they are armed.

Mr. Brodchandel explained the shifts in Secaucus. Harmony Foundation has about 12 security personnel in Secaucus. The surveillance is for the safety of employees and the patients, to protect the product and to monitor suspicious activity. Harmony Foundation will meet with the Police and Fire Departments to go through the procedures in case of an emergency.

Each employee has a background check and must have an ID card issued by the State. They get a new I.D. card issued every year.

Mr. Brodchandel said the product would be moved off site in sprinter vans with security staff driving and transporting. Prior to moving the product, they need to get approval from the State and the transportation is manifested. Planning the transportation takes about one week.

Mr. Brodchandel explained the purpose of the fencing. The size of the fence is based on the security consultant's recommendations to keep people out. If the fence variance is not granted, Harmony Foundation can discuss it with the State Department of Health and their security director and if everyone is agreeable, they will move forward without the fence. The fence will not be electrified.

The State has looked at the preliminary site plan but they will not give approvals until the applicant has a Certificate of Occupancy.

Mr. Brodchandel said they want minimal exterior lighting because they do not want to attract attention but do need some lighting for security. Every building is alarmed and every zone inside is alarmed. They want to keep the growing and processing discrete and away from the public. Mr. Brodchandel said the only signs they want are their name on the building and one small sign with the name Harmony on it.

Mr. Brodchandel explained the staggered shifts to the Board. He said it helps with the security check and the flow and has a very positive effect. Harmony Foundation will have three shifts. Start times are 6am to 8am with 8-hour shifts. The third shift is for maintenance personnel.

Employees leaving for lunch will have to re-gown. Currently they do not have policy not allowing people to go out for lunch. They are proposing a cafeteria onsite in Lafayette as food deliveries would only be allowed to the guard shack. The only deliveries to the building will be for the cannabis growing and production. Mr. Banisch asked if the guard shack is big enough to handle the food deliveries. Mr. Brodchandel said they will have the ability to move the food deliveries from the guard shack to the employee area as no local vendors will be allowed to deliver within the site. The guard will deliver to the employee or the employee will pick up the food from the guard shack. In Secaucus, the employees go out for lunch.

Ms. Van Sickle asked if the guard shack was necessary in Lafayette or could they use a key card to get into lot. This would eliminate the stacking of cars. She asked if the parking lot need to be fenced in and guarded. Mr. Brodchandel said yes the parking lot needs to be fenced in because a parking lot is were suspicious activity can happen such as an employee being approached or solicited.

Ms. Van Sickle asked if the applicant could bring a rendering of what the facility would look like viewed from Route 94. Mr. Dykstra said he could work on that.

Ms. Van Sickle asked if the applicant is willing to enter into a developer's agreement with the Township Committee. Ms. Rizzuto said she was not sure if it was needed but she would speak with her client and will have an answer at the next meeting.

Mr. Madewell asked if they can show the Board, which trees would be removed from the site.

A motion to grant an extension of time to the extent necessary and to carry the hearing to the November 21, 2019 meeting without further notice was made by Ms. Van Sickle. It was seconded by Ms. Deller and passed with a roll call vote. Ayes: Van Sickle, Potter, Madewell, Deller, Andersen, Taylor.

Mr. Hughes and Mr. O'Leary returned to the Board.

AUDIENCE:

Mr. Taylor opened the meeting to the public. With nobody coming forward, the meeting was closed to the public.

OLD BUSINESS:

1.) Amendment to Chapter 12 – Sign Variance

Mr. Banisch suggested a definition of Building Identification as “a building identification sign shall not be an exempt sign in accordance with (the section for exempt signs) when the sign advertises the name or nature of the business or commerce conducted on the premises. He felt the intention was to have not too many signs. He felt if the sign was existing on the building it was exempt. Mr. O'Leary felt the intent is for an existing historical sign and does not apply to new signs. There was a discussion on the intent of the provision of the ordinance. Mr. Taylor

felt the way the ordinance was written it is not just for historic buildings. Mr. Banisch suggested the ordinance read as follows: Non-commercial memorial plaques, historic etched stone building identification signs and building corner stones....

The Board discussed limiting the size of the building identification sign.

NEW BUSINESS:

Mr. Hughes suggested the Board Chair state a cutoff time for testimony. He suggested an objector be limited to a certain amount of time. The Board Secretary said she could send language out to the Board for their consideration, which is used by Andover Township Land Use Board.

Ms. Leo was not comfortable limiting the public from asking all of their questions.

A motion to make it a policy of the Board that no new witness after 10pm and all testimony should cease at 10:30pm was made by Mr. O'Leary. It was seconded by Mr. Madewell and passed with everyone saying aye.

RESOLUTIONS: None.

ORDINANCES: None.

ZONING REPORT: See Attached.

The Board had no questions.

LIAISON REPORTS:

Township Committee

Mr. O'Leary said he had attended the solar farm dedication ceremony. He said about 50 people attended. The grid is up and this is the first community solar project in the State.

Open Space

Nothing to report.

Economic Development

Nothing to report.

BILLS: Bills List # 12

The Board Secretary went over the bills with the Board.

A motion to approve the bills as presented was made by Mr. O'Leary. It was seconded by Mr. Hughes and passed with a roll call vote. Ayes: Hughes, O'Leary, Van Sickle, Aikens, Potter, Madewell, Deller, Andersen, Taylor.

CORRESPONDENCE: None.

ADJOURNMENT:

With no further business to come before the Board, a motion to adjourn was made by Ms. Van Sickle. It was seconded by Mr. Hughes and passed with everyone saying aye.

Respectfully submitted,

Stephanie Pizzulo